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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

COREY GERWASKI,
Plaintiffs,
vs.

Case No.: 2:24-cv-00985

STATE OF NEVADA ex rel. BOARD
OF REGENTS OF THE NEVADA
SYSTEYM OF HIGHER
EDUCATION, on behalf of the
UNIVERSITY OF NEVADA, LAS
VEGAS; KEITH WHITFIELD,
individually, AJP EDUCATIONAL
FOUNDATION INC., A California
Non-Profit Corporation, STUDENTS
FOR JUSTICE OF PALESTINE-
UNLV; NATIONAL STUDENTS
FOR JUSTICE OF PALESTINE;
NEVADANS FOR PALESTINIAN
LIBERATION DOES I-XX and ROE
entities I-XX.

**OPPOSITION TO AJP EDUCATIONAL
FOUNDATION, INC'S SPECIAL
MOTION TO DISMISS PURSUANT TO
NEV. REV STAT. §41.660**

[ORAL ARGUMENT REQUESTED]

Defendants.

1 COMES NOW, Plaintiff, COREY GERWASKI, (hereinafter “Gerwaski” *inter alia*) by
2 and through his attorneys of record, SIGAL CHATTAH, ESQ., of CHATTAH LAW GROUP
3 and JOSEPH S. GILBERT, ESQ., of JOEY GILBERT LAW, and file the foregoing Response to
4 AJP Educational Foundation Inc.’s Special Motion to Dismiss Pursuant to NRS § 41.660. [ECF
5 37] filed by Defendant AJP Educational Foundation, Inc. in the above-entitled action.
6

7 DATED this 1st day of January, 2025.

8 CHATTAH LAW GROUP

9 /s/ Sigal Chattah

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CASES AND AUTHORITIES

CASES

Area 51 Prods. v. City of Alameda, 229 Cal. Rptr. 3d 165, 175 (Cal. Ct. App. 2018)

Boim v American Muslims for Palestine (7th Cir. 2021)

Bulen v. Lauer, Case No. 81854, 508 P.3d 417 (Nev. 2022)

Coker v. Sassone, 135 Nev. Adv. Rep. 2, 432 P.3d 746 (2019)

City of Costa Mesa v. D'Alessio Invs., LLC, 154 Cal. Rptr. 3d 698, (Cal. Ct. App. 2013)

Delucchi v. Songer, 133 Nev. 290, 396 P.3d 826 (2017)

John v. Douglas County Sch. Dist., 125 Nev. 746, 219 P.3d 1276 (2009)

Miller v. Jones, 970 P.2d 571 7 (Nev. 1998)

Nelson v. City of Las Vegas, 665 P.2d 1141 5 (Nev. 1983)

Olivero v. Lowe, 995 P.2d 1023 (Nev. 2000).

Park v. Bd. of Tr. of Cal. State Univ., 2 Cal.5th 1057, 393 P.3d 905 (2017)

Shapiro v. Welt, 133 Nev. 35, 389 P.3d 262 (2017)

Smith v. Zilverberg, 481 P.3d 1222 (Nev. 2021)

Spiertos v. Yemenidjian, 137 Nev. Adv. Rep. 73, 499 P.3d 611 (2021)

Stark v. Lackey, 136 Nev. 38, 458 P.3d 342 (2020)

STATUTES

18 U.S.C. § 2333(a)

18 U.S.C. § 2339B

18 U.S.C. § 2333(d)(2).

Nev. Rev. Stat. Ann. § 41.650

Nev. Rev. Stat. Ann. § 41.660(1)(a).

MISC.

Pub. L. 104-132, Title III, § 301(a)(7)

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **INTRODUCTION**

3 Terrorism is a crime in America—both at the federal level and in many States. So too is
4 material support for terrorism. This case is not about free speech. This case is about an
5 organization that has functioned as a domestic arm of foreign terrorist organizations in the
6 United States, lending support to said terrorist organizations while dually wreaking havoc on
7 university campuses nationwide. Defendant's Motion to Dismiss, seeks to dismiss solely the
8 Ninth Claim for Relief, for Intentional Infliction of Emotional Distress.
9

10 Federal law has also long made the knowing provision of material support to designated
11 foreign terrorist organizations like Hamas illegal. See, e.g., 18 U.S.C. § 2339B. The federal
12 statute defines material support to include "any property, tangible or intangible, or service,
13 including currency or monetary instruments . . . expert advice or assistance . . . communications
14 equipment, facilities . . . and transportation, except medicine or religious materials." *Id.* § 2339A.
15

16 Material-support statutes recognize that organizations like Hamas "are so tainted by their
17 criminal conduct that any contribution to such an organization facilitates that [criminal]
18 conduct." Pub. L. 104-132, Title III, § 301(a)(7). Federal law has long made the knowing
19 provision of material support to designated foreign terrorist organizations like Hamas illegal.
20 See, e.g., 18 U.S.C. § 2339B. Defendants here are alleged to have provided material support for
21 Hamas, the brutal terrorist regime that not only oppresses millions in Gaza but that also
22 murdered more than a thousand innocents and kidnapped hundreds more.
23

24 Defendants are alleged to be the propaganda and recruiting wing of a Foreign Terrorist
25 Organization (FTO) in the United States. AMP and NSJP have galvanized anti-Israel and anti-
26 Semitic activists across the country in the wake of Oct. 7, calling for a "Unity Intifada" against
27 the Jewish state and vowing to "contribute to the fight for Palestinian liberation."
28

1 The following action involves religious discrimination, harassment and obstruction
2 against Plaintiff as a student at the University of Nevada Las Vegas, in addition to as an
3 employee of University of Nevada Las Vegas under both Title VII and Title IX. The action also
4 includes Defendant AJP Educational Foundation, Inc's violation of 18 U.S.C. § 2333(a) which
5 provides in pertinent part: "[L]iability may be asserted as to any person who aids and abets, by
6 knowingly providing substantial assistance, or who conspires with the person who committed
7 such an act of international terrorism." 18 U.S.C. § 2333(d)(2).

9 Defendants AJP Educational Foundation Inc. a/k/a American Muslims for Palestine
10 (hereinafter "AMP") are included as a party to this action, for their actions in soliciting, inciting
11 and encouraging students at UNLV, along with faculty to engage in harassment of Jewish
12 students at the University, and successfully coordinating the harassment and plight of Mr.
13 Gerwaski.

15 It is no coincidence that AMP, specifically engaged in activities at UNLV for the
16 purposes of deliberately tormenting and harassing Jewish students and wreaking havoc on Jewish
17 student life on campus. AMP's actions not only encouraged and solicited harassment against
18 Jewish students on UNLV's campus, it also legitimized blatant antisemitic acts that Mr.
19 Gerwaski was subjected to by students and faculty.

21 AMP's acts of dehumanizing Jewish students on campus, by "checking" the Zionist
22 presence there effected Mr. Gerwaski, as a member of the Student Government wherein he was
23 subjected to overwhelming antisemitic acts as a result of the legitimization of harassment and
24 obstruction that AMP successfully encouraged on campus.

26 Notwithstanding the coordination, with NSJP and SJP-UNLV and other organizations
27 obstruct, harass and intimidate Jewish students such as Gerwaski, and specifically Gerwaski,
28 AMP knowingly used or permitted the use of funds raised by a solicitation of contributions and

1 **manpower to provide support to terrorists, terrorist organizations and terrorist activities**
2 **as delineated in the First Amended Complaint (hereinafter “FAC”).**

3 Therefore, AMP’s acts were two-fold; first, to target Jewish students at UNLV and
4 subject them and Gerwaski to harassment by encouraging and soliciting said harassment; and
5 second, coordinating with overseas Foreign Terrorist Organizations (FTOs) to continue their
6 terrorist actions against Israeli citizens and American interests in violation of US laws as
7 delineated herein.
8

9 **STATEMENT OF FACTS**

10 After October 7, 2023, students at UNLV and faculty rallied to support Hamas, whose
11 terrorists had invaded Israel to murder, torture, and rape 1,200 people and abduct hundreds of
12 civilians. Defendant AJP Educational Foundation, Inc. a/k/a American Muslims for Palestine
13 (“AMP”) is a 501(c)(3) non-profit corporation incorporated in California with its principal place
14 of business in Falls Church, Virginia.
15

16 As Plaintiff alleges in his FAC, AMP encouraged antisemitic discrimination and
17 harassment of Jewish students at UNLV directly resulting on unimaginable harassment against
18 Jewish students across campus and overwhelming harassment and discrimination against Mr.
19 Gerwaski.
20

21 Defendant AMP’s roll and acts in this case are particularly egregious because their roll
22 was two-fold. First, on-campus acting to sow chaos at the University, inciting, encouraging and
23 soliciting harassment of Jewish students and delegitimizing their presence on campus,
24 encouraging students and faculty to follow their lead.

25 Off campus, because of the coordinated activities that AMP engaged in on university
26 campuses facilitated support to FTOs as recognized by Hamas itself. As Hamas terrorists
27 targeted Israel, AMP (through its campus brand) declared it is “PART of” Hamas and under its
28

1 “unified command” and began pumping a pro-Hamas narrative and propaganda around America
2 and specifically at UNLV.

3 AMP is Hamas’ propaganda arm in the United States creating a platform of pro-terrorist
4 activities. AMP continuously supplied Hamas with invaluable support through recruitment,
5 fundraising, human mobilization and volunteers to further their terrorist agenda.
6

7 On university campuses world-wide, National Students for Justice for Palestine (“NSJP”) and locally, SJP-UNLV, AMP declared that it is “PART of” Hamas and operating under its
8 “unified command,” and it unleashed a concerted propaganda and disruption campaign on
9 America’s University campuses.
10

11 Plaintiff seeks to hold AMP¹ liable for its role in furthering the chaos and mayhem
12 caused on UNLV’s campus against Gerwaski: supplying pro-Hamas propaganda services—
13 before, during, and after October 7—to maximize Hamas’ terrorist activities, and radicalize and
14 legitimize support for Hamas’ terrorist activities.
15

16 On May 29, 2024, the United States Congressional House Oversight Committee sent an
17 initial letter requesting AMP turn over documents related to the funding of and communications
18 with NSJP, as well as anything regarding Hamas’ brutal Oct. 7 terrorist attack against Israel, as
19 well as “all documents and communications, regardless of topic, created on or sent between Oct. 6
20 (and) Oct. 8, 2023.” On June 24, 2024 United States Rep. James Comer, threatened to subpoena
21 AMP over its connections to protests at college campuses across the U.S. providing that the
22 House Oversight Committee has “substantial evidence” connecting AMP to Students for Justice
23 in Palestine (SJP), a group which contributed to many of the protests. Despite requests to gain
24
25

26 ¹ It is significant to note that Courts have previously found that American Muslims for Palestine, as an
27 alter ego of the Islamic Association and Holy Land Foundation, is liable under § 2333(a) *Boim v*
28 *American Muslims for Palestine* (7th Cir. 2021), *See also Boim* Case: 1:17-cv-03591 Document #: 250 Filed: 05/17/22

1 more insight into the Group’s operations, Rep. Comer has been stonewalled. The request
2 specifically demanded AMP Executive Director Osama Abuirshaid to provide all “documents and
3 communications” with and related to an associated organization, National Students for Justice in
4 Palestine (SJP), which Comer said claims to ‘support over 200 Palestine solidarity organizations
5 on college campuses across North America.
6

7 Representative Comer stated: “Instead of working to accommodate my requests or producing
8 any responsive documents to the Committee, your counsel has indicated that AMP will not accept my
9 May 29, 2024, letter,” the message reads. “Perhaps you believe this is a necessary course of action
10 because such an admission could negatively impact AMP’s legal strategy in responding to a lawsuit filed
11 in the Eastern District of Virginia.”
12

13 “This oversight is critical to inform legislation to ensure that federal agencies are able to
14 adequately prevent money laundering and terrorist financing, as well as to determine whether
15 statutory reporting requirements on financial institutions related to money laundering and
16 terrorist financing need to be updated by Congress,” he added. Rep. Comer followed up by
17 including requests for funding documents and communications to Hamas and SJP. He outlined a
18 deadline of July 8. That deadline has passed and no documents have been disclosed.
19

20 On July 16, 2024, a Virginia Court² ordered American Muslims for Palestine (AMP)
21 to hand over records related to the group allegedly funding Hamas and other international
22 terrorist organizations. The Court found that AMP is the parent organization of National Students
23 for Justice in Palestine (SJP). Dozens of SJP chapters across the US participated in anti-Israel
24 protests that roiled US college campuses this spring.
25
26

27 ² [July 16, 2024 - Virginia Court Orders American Muslims for Palestine to Produce Records Requested](#)
28 [by Attorney General Miyares \(state.va.us\)](#)

1 The Virginia Court required disclosure of AMP’s finances, organizational structure and
2 governance, its solicitation activities, and its potential ties to terrorist organizations.

3 In addition to failing to register as an IRS-designated 501c3 charity in Virginia, AMP is
4 accused of having “knowingly used or permitted the use of funds raised by a solicitation of
5 contributions to provide support to terrorists, terrorist organizations, terrorist activities, or family
6 members of terrorists.”
7

8 **LEGAL ARGUMENT**

9 Under Nevada’s anti-SLAPP statutes, a moving party may file a special motion to
10 dismiss if an action is filed in retaliation to the exercise of free speech. *See Coker v. Sassone*,
11 135 Nev. Adv. Rep. 2, 432 P.3d 746, 748-749 (2019). “The merits of [the plaintiff’s] claims. . .
12 play no part in the first step of the anti-SLAPP analysis see also *City of Costa Mesa v. D’Alessio*
13 *Invs., LLC*, 154 Cal. Rptr. 3d 698, 709 (Cal. Ct. App. 2013).
14

15 Similar to a summary judgment motion, the district court is not to weigh evidence on an
16 anti-SLAPP motion; rather, the district court must “accept plaintiff’s submissions as true and
17 consider only whether any contrary evidence from the defendant establishes its entitlement to
18 prevail as a matter of law.” *Coker*, 432 P.3d at 749 (2019) (quoting *Park*, 383 P.3d at 911).
19

20 **A. NEVADA’S ANTI-SLAPP STATUTE STANDARD³**

21 Under the Nevada law, “[a] person who engages in a good faith communication in
22 furtherance of the right to petition or the right to free speech in direct connection with an issue of
23 public concern is immune from civil liability for claims based on the communication.” Nev. Rev.
24 Stat. Ann. § 41.650 (2019). Such “good faith” communications must be true or made without
25 knowledge of their falsity. § 41.637. They include four categories of communications: those
26

27 ³ Nevada Courts looks to California guidance when analyzing anti-SLAPP issues given the similarities “in
28 purpose and language” of Nevada and California’s anti-SLAPP statutes. *See Coker*, 135 Nev. at 11, 432
P.3d at 749.

1 “aimed at procuring governmental or electoral action”; those informing or complaining to a
2 federal, state, or local legislator or employee about “a matter reasonably of concern to the
3 respective governmental entity”; statements made in direct connection with an issue under
4 consideration by a governmental body; and communication made in direct connection with an
5 issue of public interest in a forum open to the public. § 41.637.
6

7 To prevail on a Motion to Dismiss, Defendants must show by a preponderance of
8 evidence that the claim is based on a good faith exercise of the right of petition or free speech in
9 “direct connection with an issue of public concern.” § 41.660(1)(a). The defendant does so by
10 showing that the communications at issue “falls within one of the four categories enumerated in
11 NRS 41.637 and ‘is truthful or is made without knowledge of its falsehood.’” *Delucchi v.*
12 *Songer*, 133 Nev. 290, 299, 396 P.3d 826, 833 (2017) (quoting NRS 41.637).
13

14 To survive an anti-SLAPP motion, the plaintiff must then show a probability of
15 prevailing on the claim. § 41.665(2). Courts will consider evidence in connection with anti-
16 SLAPP motions, such as witness testimony or affidavits. § 41.665(3)(d).

17 Under Nevada’s anti-SLAPP statutes, a moving party may file a special motion to
18 dismiss if an action is filed in retaliation to the exercise of free speech. *Coker v. Sassone*, 135
19 Nev. Adv. Rep. 2, 432 P.3d 746, 748-749 (2019). A district court considering a special motion to
20 dismiss undertakes a two-step analysis. *Id.*
21

22 An anti-SLAPP Motion is not a summary judgment motion and is not governed by the
23 N.R.C.P. 56 standard. The Nevada Supreme Court made clear that (unlike on a motion for
24 summary judgment) in completing the first step of the anti-SLAPP analysis, the district court
25 must disregard the evidence a moving party provides with their anti-SLAPP motion *Spiritos v.*
26 *Yemenidjian*, 137 Nev. Adv. Rep. 73, 499 P.3d 611, 616 (2021). The district court must
27 disregard the moving party’s declaration at the first step of its analysis and instead, should
28

1 evaluate any alleged communications as it is alleged in plaintiff's complaint and in any of the
2 plaintiff's clarifying declarations. *Id.* at 616-617.

3 Therefore, the question is really whether this Court, based on its own review of the
4 record, believes the challenged claims arise from protected activity. *See Coker*, 135 Nev. at 11,
5 citing *Park v. Bd. of Tr. of Cal. State Univ.*, 2 Cal.5th 1057, 217 Cal Rptr.3d 130, 393 P.3d 905,
6 911 (2017).

7
8 Nevada law only requires the District Court to consider the second step of the anti-
9 SLAPP analysis if the defendant makes its initial showing under the first step of the anti-SLAPP
10 analysis. *See Shapiro v. Welt*, 133 Nev. 35, 38, 389 P.3d 262, 267 (2017); see also *Smith*, 481
11 P.3d at 1229.

12 To satisfy the second step of the Anti-SLAPP analysis, the plaintiff must only show, by
13 prima facie evidence, that his claims have minimal merit. *Smith v. Zilverberg*, 481 P.3d 1222,
14 1229 (Nev. 2021) (citing NRS 41.660(3)(b); *Abrams v. Sanson*, 136 Nev. Adv. Op. 91, 458 P.3d
15 at 1069. If the plaintiff meets his burden, then the claim may proceed and is not subject to early
16 dismissal. *See Douglas County Sch. Dist.*, 125 Nev. at 754.

17
18 The Court cannot find that Gerwaski's complaint relates to communications that fall
19 within any of the four categories enumerated in NRS 41.637 because the Complaint focuses on
20 AMP's conduct in violation of 18 U.S.C. § 2339B; not good faith communications made in
21 furtherance of the right to free speech.

22
23 NRS 41.660(3)(a) requires application of a preponderance of the evidence standard in
24 adjudication of this Motion.

25 ///

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B. PLAINTIFF'S NINTH CLAIM FOR RELIEF FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS DOES NOT CIRCUMVENT FIRST AMENDMENT PROTECTIONS

In his Ninth Claim for relief for Intentional Infliction of Emotional Distress, Gerwaski alleges that Defendants' acts and omissions described were extreme and outrageous and intentionally conducted to cause emotional distress to Plaintiff. As a direct and proximate result of the malicious and intentional conduct by Defendants, Plaintiff suffered, and will continue to suffer, damages, including but not limited to such severe and extreme emotional distress manifested as great humiliation, embarrassment, shame, and other pain and suffering.

The intentional conduct of the Defendants was so despicable, oppressive, malicious, and engaged in with such conscious disregard for Plaintiff's rights.

1. Gerwaski's Complaint focuses on Conduct Not Communications

The defendant's showing required to satisfy the first step has two components. The first component requires that "the comments at issue fall into one of the four categories of protected communications enumerated in NRS 41.637." *Stark v. Lackey*, 136 Nev. 38, 40, 458 P.3d 342, 345 (2020) (*citing Delucchi*, 133 Nev. at 299, 396 P.3d at 833) (emphasis added).

Gerwaski did not file an action against AMP for defamation, negligent misrepresentation, or any claim for relief as to Defendant's statements about him. All of Gerwaski's claims were premised on actions that Defendants took in violation of 18 U.S.C. § 2339B and providing substantial assistance to terrorist organizations and wreaking havoc on UNLV's campus and direct consequences he suffered therefrom.

Gerwaski's complaint is not based on communications made by AMP, but on a course of conduct that violates federal law (18 U.S.C. § 2339B). Obviously, Nevada's anti-SLAPP statutes only apply to protect a defendant's exercise of his or her First amendment free speech rights.

1 Therefore, in a blatant effort to make this case something it is not, AMP's Motion is based on
 2 content of speech rather than conduct in violation of federal anti-terrorism laws.

3 The largest flaw in AMP's anti-SLAPP Motion is their refusal to accept that Gerwaski
 4 filed his Complaint based on AMP's conduct of providing substantial assistance to FTO's abroad
 5 and not on communications made by either AMP or SJP/NSJP. While AMP wants to focus on
 6 communications based on free speech, Gerwaski's Complaint focuses on AMP and SJP
 7 providing substantial assistance to foreign terrorist organizations across the Middle East, hiding
 8 under the auspices of "free speech".

10 **2. AMP Has Not Demonstrated That They Made Good Faith**
 11 **Communications Protected by the Categories Enumerated in NRS**
 12 **41.637.**

13 "To determine whether a cause of action arises from protected activity, [courts] disregard
 14 its label and instead examine its gravamen by identifying [t]he allegedly wrongful and injury-
 15 producing conduct ... that provides the foundation for the claim." *Area 51 Prods. v. City of*
 16 *Alameda*, 229 Cal. Rptr. 3d 165, 175 (Cal. Ct. App. 2018) (citations and quotation marks
 17 omitted).

18 "[T]he focus is on determining what 'the defendant's activity [is] that gives rise to his or
 19 her asserted liability—and whether that activity constitutes protected speech.'" *Id. (citing Park v.*
 20 *Board of Trustees of California State University*, 217 Cal.Rptr.3d 130, 393 P.3d 905 (2017); see
 21 also *Feldman v. 1100 Park Lane Assocs.*, 160 Cal. App. 4th 1467, 1478, 74 Cal. Rptr. 3d 1, 9
 22 (2008) ("the critical consideration is whether the cause of action is based on the defendant's
 23 protected free speech or petitioning activity") (emphasis in original).

24 Nevada's anti-SLAPP statutes only apply to protect a defendant's exercise of his or her
 25 First amendment free speech rights. Therefore, in a blatant effort to make this case something it
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 27
 28

1 is not, AMP claims that the communications were related to an issue of public interest, was made
2 in a place open to the public/public forum and AMP made truthful comments.

3 Defendant's act underlying the cause of action must "itself have been an act in
4 furtherance of the right of petition or free speech; *See Area 51 Productions, Inc. v. City of*
5 *Alameda*, 229 Cal. Rptr. 3d 165, 176 (Cal. Ct. App. 2018) *Park*, 383 P.3d at 907.

6 Defendants have asserted these failed arguments in Courts across the Country, wherein
7 the gravamen of their acts is the substantial support of FTO's through the galvanized anti-Israel
8 and anti-Semitic activists across the country in the wake of Oct. 7, calling for a "Unity Intifada"
9 against the Jewish state and vowing to "contribute to the fight for Palestinian liberation."

10 AMP knowingly used or permitted the use of funds raised by a solicitation of
11 contributions and manpower to provide support to terrorists, terrorist organizations and terrorist
12 activities as delineated in the First Amended Complaint (hereinafter "FAC"), in violation of 18
13 U.S.C. § 2339B.

14 As alleged in the Complaint, Defendants acts are in furtherance of providing substantial
15 assistance to an FTO, have nothing to do with communications or speech; nor should they even
16 subject to analysis under Nevada's Anti-SLAPP laws.

17
18
19 **3. Any Communications made by AMP were not Truthful or Made Without**
20 **Knowledge of their Falsehoods.**

21 To satisfy the first step, the defendant must show that "(1) 'the comments at issue fall
22 into one of four categories of protected communications enumerated in NRS 41.637' and (2) 'the
23 communication is truthful or is made without knowledge of its falsehood.'" *Smith v. Zilberberg*,
24 137 Nev. Adv. Rep. 7, 481 P.3d 1222 (2021) (quoting *Stark v. Lackey*, 136 Nev. 38, 40, 458
25 P.3d 342, 345 (2020); see also NRS 41.637; *Coker*, 432 P.3d at 750 ("We clarified in *Shapiro v.*
26 *Welt* that 'no communication falls within the purview of NRS 41.660 unless it is 'truthful or is
27 made without knowledge of its falsehood.'") (citing *Shapiro v. Welt*, 133 Nev. 35, 40, 389 P.3d
28

262, 268 (2017)). The defendant must make both showings. It is not enough that communications fall into one of the categories enumerated in NRS 41.637.

The Nevada Supreme Court has held that an affidavit stating that the defendant believed the communications to be truthful or made without knowledge of their falsehood is only sufficient to meet the defendant's burden absent contradictory evidence in the record. *Stark v. Lackey*, 136 Nev. Adv. Rep. 4, 458 P.3d 342, 347 (2020).

Here regardless of whether statements were truthful as to the content of the speech itself towards Israel, its political policies, or public interest, taking all of the FAC as truthful as alleged, Defendant's provided substantial assistance to FTO, and that is not protected under the First Amendment.

Notwithstanding same, whether NSJP and AMP are part of the same organization is irrelevant to the analysis that both have been accused of providing substantial assistance to FTO's in violation of 18 U.S.C. § 2339B.

4. Defendants Failed to Meet Their Burden of the First Step of the Anti-SLAPP Analysis

Nevada law only requires the District Court to consider the second step of the anti-SLAPP analysis if the defendant makes its initial showing under the first step of the anti-SLAPP analysis. *See Shapiro v. Welt*, 133 Nev. 35, 38, 389 P.3d 262, 267 (2017); see also *Smith*, 481 P.3d at 1229.

Here, Defendants failed to even meet that first step demonstrating that the comments made are protected communications, rather than providing substantial assistance to FTO.

As stated *supra*, the gravamen of Defendants' conduct and the redress sought by Gerwaski in this matter is the violation of 18 U.S.C. § 2339B *et. seq.* Defendants present the same failed arguments in this case as they have in every case across the nation, that their acts are protected

1 by the First Amendment.⁴⁵ Again, AMP is not being sued for the content of their speech, but for
 2 their acts of providing substantial/material support to FTOs in violation of 18 U.S.C. § 2339B *et*
 3 *seq.*

4 Therefore, this Court need not even proceed with the second step of the Anti-SLAPP
 5 analysis as to whether Plaintiff demonstrates with prima facie evidence, probability of success on
 6 his claim for intentional infliction of emotional distress.
 7

8 **C. PLAINTIFF DEMONSTRATES WITH PRIMA FACIE EVIDENCE**
 9 **PROBABILITY OF SUCCESS ON HIS CLAIM FOR IIED**

10 Where a defendant “makes [its] initial showing” on the first step of the anti-SLAPP
 11 analysis, the burden shifts to the plaintiff to show “with prima facie evidence a probability of
 12 prevailing on the claim.” *Shapiro*, 133 Nev. at 38, 389 P.3d at 267 (2017) (quoting NRS
 13 41.660(3)(b)).

14 Even assuming arguendo, that this Court finds that Defendant’s met their burden of proof
 15 of the anti-SLAPP analysis, which they don’t, Gerwaski demonstrates with prima facie evidence
 16 probability of success on his claim for IIED.
 17

18 To satisfy the second step of the anti-SLAPP analysis, the plaintiff must show, by prima
 19 facie evidence, that his claims have minimal merit. *Smith v. Zilverberg*, 137 Nev. Adv. Rep. 7,
 20 481 P.3d 1222, 1229 (2021) (citing NRS 41.660(3)(b); see also *Abrams v. Sanson*, 136 Nev. 83,
 21 91, 458 P.3d 1062, 1069 (2020). If the plaintiff meets his burden, then the claim may proceed
 22 and is not subject to early dismissal. See *John v. Douglas County Sch. Dist.*, 125 Nev. 746, 754,
 23 219 P.3d 1276 (2009).
 24

25 ⁴ [July 16, 2024 - Virginia Court Orders American Muslims for Palestine to Produce Records Requested by Attorney General Miyares \(state.va.us\)](#)

26 ⁵ In Virginia, AMP presented the same failed First Amendment narrative, wherein the Richmond Court
 27 denied and instructed full compliance with the AG Miyares, Civil Investigative Demand (CID), finding
 28 that AMP is the parent organization of NSJP and accordingly, both organizations must comply with the CID.

1 The elements of IIED in Nevada are: "(1) that the defendant's conduct was extreme and
2 outrageous; (2) that the defendant either intended or recklessly disregarded the causing of
3 emotional distress; (3) that the plaintiff actually suffered severe or extreme emotional distress;
4 and (4) that the defendant's conduct actually or proximately caused the distress." *Olivero v.*
5 *Lowe*, 995 P.2d 1023, 1025 (Nev. 2000). *Nelson v. City of Las Vegas*, 665 P.2d 1141, 1145 (Nev.
6 1983); *see Miller v. Jones*, 970 P.2d 571, 577 (Nev. 1998).

7
8 “[E]xtreme and outrageous conduct is that which is ‘outside all possible bounds of
9 decency’ and is regarded as ‘utterly intolerable in a civilized community.’” *Rivera v. CCA*; 0:20-
10 cv-15651 (9th Cir.)

11 Here, it is indisputable that Defendants conduct was extreme and outrageous, when they
12 specifically provide substantial assistance to FTOs. It is outrageous that an American Non-Profit
13 organization and its subsidiary organizations engage in activities that support organizations that
14 are a threat to American national security. It is outrageous that these organizations dare to utilize
15 IRS non-profit status to foment hatred on university campuses and provide America’s enemies
16 abroad substantial assistance in coordinating antisemitic activities against national security
17 interests.
18

19 Plaintiff sufficiently plead all the psychosomatic disorders that resulted from Defendants
20 acts in his Complaint. Plaintiff sufficiently pleads and demonstrates that Defendants acts is both
21 the actual and proximate cause of his distress.
22

23 As Gerwaski meets the causation element of his tort claims and demonstrate a probability
24 of prevailing on his claims. *See, e.g., Bulen v. Lauer*, Case No. 81854, 508 P.3d 417 (Nev. 2022)
25 (unpublished disposition) (failure to demonstrate an element of claim precludes carrying of
26 burden at the second step of the anti-SLAPP analysis).
27
28

CONCLUSION

A careful review of Plaintiff's FAC will demonstrate that in the course of the 77-page Complaint, the gravamen of the IIED claim against AMP is not relating to their speech, but to their violation of 18 U.S.C. § 2339B et seq. Their complicity and providing substantial assistance to foreign terrorist organizations have nothing to do with free speech, but are in fact a criminal act, for which civil liability thereon is being sought against them in Courts across the Country., Plaintiff respectfully request that this Court deny the Defendants' Special Motion to Dismiss in its entirety.

DATED this 1st day of January, 2025.

CHATTAH LAW GROUP

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of January, 2025, I personally served a true copy of the foregoing Plaintiff's RESPONSE TO DEFENDANTS' SPECIAL MOTION TO DISMISS by the Court's electronic service system to all registered parties:

/s/ Sigal Chattah

An Agent of Chattah Law Group